

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Sandra K. Richardson, et al.

Application No.: 09/334,256

Group Art Unit: 3625

Filed: June 16, 1999

Examiner: Forest Thompson, Jr.

For: METHOD AND APPARATUS FOR
PLANNING AND MONITORING
MULTIPLE TASKS BASED ON USER
DEFINED CRITERIA AND PREDICTIVE
ABILITY

28

APPELLANTS' REPLY BRIEF UNDER 37 CFR § 1.193

Attention: Board of Patent Appeals and Interferences
Commissioner for Patents
Washington, DC 20231

Dear Sir:

This Reply Brief is pursuant to 35 U.S.C. § 134 and 37 CFR § 1.193 in the above-identified U.S. Patent application and is responsive to the Examiner's Answer (Paper No. 19) mailed June 18, 2002.

UPDATED STATUS OF AMENDMENTS AFTER FINAL

A Supplemental Amendment was filed on January 22, 2002 amending claim 1 to address the rejection under 35 U.S.C. 112, second paragraph set forth in item 10 in the final Office Action dated October 22, 2001. This Amendment was mentioned in section IV of the Appeal Brief filed on April 9, 2002. Section (4) of the Examiner's Answer merely states that Appellants' statement regarding the status of amendments is correct. No specific acknowledgement of this Supplemental Amendment has been received by Appellants as of the date of this Reply Brief. Thus, the status of this Supplemental Amendment (*i.e.*,

whether the Amendment has been entered and whether the rejection under 35 U.S.C. 112 has been overcome) is unclear.

An After Final Amendment was filed on April 29, 2002 amending claims 9, 11, 13, and 17 to correct minor typographical errors newly discovered in those claims. No acknowledgement of the After Final Amendment was provided in the Examiner's Answer or otherwise. Thus, the status of this After Final Amendment is unclear.

UPDATED STATEMENT OF ISSUES ON APPEAL

1. Whether claims 1-4, 7-8, 11-15, 19 and 21 are indefinite under 35 U.S.C. 112, second paragraph on the ground that insufficient antecedent basis exists for the term "said estimated date" in line 11 of claim 1.

2. Whether claims 1-4 and 7-23 are properly rejected under 35 U.S.C. § 103 as being unpatentable over the book entitled A Guide to the Project Management Body of Knowledge, by PMI Standards Committee, William R. Duncan, Director of Standards, (pub. Project Management Institute, 1996) (hereinafter "Duncan").

ARGUMENTS

I. THE CLAIMS ARE NOT INDEFINITE UNDER 35 U.S.C. 112, SECOND PARAGRAPH

As stated above, Appellants submitted on January 22, 2002 an Amendment proposing to amend claim 1 to insert the word "received" before the term "said estimated date" in line 11 of claim 1, in accordance with the Examiner's suggestion. Appellants note that the Appendix to the Updated Brief on Appeal filed on April 9, 2002 includes the amended phrase in the claim in reliance on the assumption that the Amendment would

have been entered. Since no new issues were presented and no new search and/or consideration would have been necessitated by this amendment, Appellants respectfully urge the Board to order entry of this Amendment and to overturn the rejection under 35 U.S.C. 112, second paragraph set forth in the final Office Action dated October 22, 2001.

II. DEFINITIONS OF TERMINOLOGY SPECIFIC TO THE INVENTION

A. GENERALLY

Throughout the prosecution of the present application, it has been recognized by consensus that the claimed invention is dependent on certain terms being defined in a manner beyond their usual and customary meanings, as set forth and described in Appellants' specification. In interpreting Appellants' claims, therefore, it is necessary to look to the specification to determine the meanings of these terms within the context of the present invention. The Examiner's Answer asserts that the definitions of Appellants' terms contained in the Answer were "extracted" from the specification (Examiner's Answer, p. 15, last para.). There are several notable inconsistencies, however, between the "definitions" supplied in the Examiner's Answer and the actual meanings within Appellants' written specification.

B. TASKING HORIZON

1. The Definition of "Tasking Horizon" in the Examiner's Answer is Incorrect.

In the present application, the term "tasking horizon" is described as being "designed to be a realistic planning window that corresponds to the length of time most employees can plan their work" (Specification, p. 6, lns. 9-13) (emphasis added). Each tasking horizon is a fixed snapshot of time within which any of a plurality of tasks dates can be scheduled into or removed therefrom (*see, e.g.*, Specification, p. 13, lns. 10-13; P. 15, lns. 15-16, 22-24). The present invention then uses the tasking horizon to analyze the

movement of task dates into and out of the relevant tasking horizon (Specification, p. 14, lns. 18-19). In other words, the progress of the various tasks in a project is measured with respect to this planning window. As such, the period of time encompassed by a tasking horizon is necessarily a window of time which is independent of any specific task in the project.

The Examiner's Answer acknowledges Appellants' description of the term as found on page 11, lines 23-24 of the specification, *i.e.*, "a realistic window of time over which tasks can be scheduled." Both the final Office Action and the Examiner's Answer, however, then proceeds to redefine the term "tasking horizon" in a manner which is inconsistent with its use in the present invention (final Office Action, p. 5, item 12; Examiner's Answer, p. 3, item 2). Specifically, the final Office Action and the Examiner's Answer redefine the term to be "the duration of time included in the planned time span defined by the task start and stop dates." However, this "definition" of the term cannot have been "extracted" from Appellants' specification, as alleged on page 15 of the Examiner's Answer, because such definition is simply not found anywhere in Appellants' specification. Since the definition of the term in the Examiner's Answer has a very specific meaning which is different from the term as used in Appellants' specification, that definition is simply incorrect.

2. The Definition of Tasking Horizon in the Examiner's Answer Does Not Make Sense In Light of the Invention Description.

Even worse than being incorrect, the definition of the term "tasking horizon" provided in the Examiner's Answer is nonsensical when used within the context of the specification and the claims, and essentially renders the term useless. The specification describes the process of assigning the tasks that will be tracked in terms of their progress during the tasking horizon (specification, p. 13, lns. 10-14, *inter alia*). For example, the description states that "[t]he final step is to assign the tasks 20 that occur during the tasking horizon." Also, the specification discloses that a "churn capturing process," a key

component of the present invention, is “triggered when task dates appear, vanish, and/or move into or out of a current tasking horizon” (Specification, p. 14, lns. 18-20).

If a tasking horizon is defined by the start and stop dates of a task, as proffered by the Examiner's Answer, how can a task be assigned to occur within a tasking horizon, if the tasking horizon by definition is the period of performance of the task? Moreover, it is impossible to move a task date out of a tasking horizon if the time span of the tasking horizon is defined by the task date itself. Based on the definition contained in the Examiner's Answer, any movement of a task date would serve to shift the tasking horizon as well.

In the present invention, the tasking horizon serves as a canvas on which various task dates are arranged. The progress of the tasks is measured based on the movement of task dates into or out of the tasking horizon. To define the term “tasking horizon” as the time span encompassed by the start and stop dates of a task, therefore, would destroy the operability of Appellants' invention. Accordingly, the Examiner's definition of the term cannot be correct.

C. VERB

The final Office Action and the Examiner's Answer set forth the definition of the term “verb” as being based on Appellants' description on page 12, lines 17-18, and page 14, lines 12-13 of Appellants' specification (final Office Action, p. 5, item 12; Examiner's Answer, p. 3, item 2, p. 15, last para.). These passages in the specification explain that “verbs” are words which capture the reasons why a task was or was not performed as planned. While this much is true, the definition of the term “verb” as set forth in the Examiner's Answer is incomplete.

The “verbs” used in the present invention are part of a predefined and structured set or sets of words and phrases (or reasons) that have been programmed into the modeling

system of the present invention. (Figure 4; specification p. 12, lns. 15-18, p. 12, ln. 22 – p. 13, ln. 6) This aspect of the term is demonstrated in the description of the invention and shown in the accompanying drawings. For example, Appellants' specification describes the inventive system as including the following processes:

“Once the tasks in a project have been determined, the next aspect of the present invention is the planning of the tasks” (p. 11, lns. 16-17). Next, the scheduling of the tasks are described (p. 11, ln. 17 through p. 12, ln. 14). Then, “[t]he next step is to assign verbs [] 18 to each task” (p. 12, ln. 15).

This process sequence is visually summarized in FIGURE 4, which shows a flow chart of an “employer task assignment stage” of the invention (specification, p. 8, ln. 10). As can be seen in FIGURE 4, the step of “selecting verbs” 18 occurs after the step of identifying a tasking horizon 16, and before the step of “assigning tasks” 20 to specific employees to perform the tasks. Organization of the pre-selected “verbs” into “sets” is discussed in Appellants' specification from page 12, line 22 through page 13, line 6, for example.

In light of the above, it is readily apparent that the term “verb” as used in the present invention requires the words and phrases constituting the “verbs” to be part of a predefined, structured set or sets of words and phrases selected during the planning stages of the project. Thus, a complete definition of the term “verb” is a “pre-selected word or phrase among a structured library of pre-selected words and phrases for explaining why a task was or was not performed as planned.” Since the “definition” of the term “verb” contained in the Examiner's Answer does not require the words or phrases to be part of a predefined, structured set(s) of words or phrases selected during the planning stages of the project, this definition is overly broad and therefore misleading.

III. THE CLAIMED INVENTION IS PATENTABLE OVER DUNCAN

A. THE PASSAGES FROM DUNCAN CITED IN THE EXAMINER'S ANSWER DO NOT MEET APPELLANTS' CLAIM ELEMENTS

1. Generally

Although the Examiner's Answer acknowledges that many features of Appellants' claimed invention are not specifically taught in Duncan, it alleges that the claimed invention is obvious "in view of that which is explicit in or reasonably inferable from Duncan," based on the "cited passages in Duncan which provide functionality that minimally one of ordinary skill in the art is able to ascertain through reasonable inference or interpretation" (Examiner's Answer, p. 17, 2nd para.). Not only, however, does the Examiner's Answer fail to explain how Duncan suggests many of the claimed elements supposedly rendered obvious by Duncan, but it also cites to sections in Duncan out of context and relies upon other sections which are inapplicable when considered in light of the actual definitions of Appellants' terms as discussed above.

To aid the Board in assessing the content of the cited Duncan reference to support Appellants discussion set forth below, Appellants have obtained of a copy of the reference and have attached a complete copy of the same hereto as **Appendix A**.

2. "Selecting A Tasking Horizon"

Independent claims 1, 9, 10, 17, 22 and 23 all recite a step of or a module for "activating" or "selecting a tasking horizon . . ." As demonstrated in section II.B. above, the Examiner's Answer uses a definition for the term "tasking horizon" which is unworkable for the present invention. Based on the incorrect definition of "tasking horizon," the Examiner's Answer indicates that this feature in Appellants' claims is met by section 3.3.2 and p. 170 in Duncan, *i.e.*, the disclosed terms "target finish date and schedule development" (Examiner's Answer, p. 4). Not surprisingly, these cited passages

only teach the determination of predicted start and stop dates of project activities, which corresponds to the incorrect interpretation of the term “tasking horizon.” However, when the passages in Duncan cited in the Examiner’s Answer are considered in light of the actual meaning of the term “tasking horizon,” it is readily apparent that the cited passages do not anticipate or render obvious the claim element of “activating” or “selecting a tasking horizon.”

As defined on page 170 of Duncan, the term “target finish date,” as relied upon on page 4 of the Examiner’s Answer, is defined as “[t]he date work is planned (targeted) to finish on an activity.” This, however, has nothing to do with a tasking horizon which is a task-independent time window within which task dates may be scheduled for purposes of performing progress analysis, as discussed above in Section II.B. of this Reply Brief. Rather, Duncan’s “target finish date” corresponds more closely to Appellants’ “estimated stop date” for an entire task, which is but one of many task dates that can be moved into and out of Appellants’ tasking horizon.

Similarly, the “schedule development” passage cited in the Examiner’s Answer is found at the third bullet point on page 31 in Duncan, and is merely defined as “analyzing activity sequences, activity durations, and resource requirements to create the project schedule,” wherein the phrase “activity sequences” is briefly described at the first bullet point on page 31, and the phrase “activity durations” is briefly described at the second bullet point on the same page in Duncan. Duncan defines “activity sequences” as “identifying and documenting interactivity dependencies” (discussed more fully in section 6.2 in Duncan). Similarly, the phrase “activity durations” is described on page 31 of Duncan to be “the number of work periods which will be needed to complete individual activities” (discussed more fully in section 6.3 in Duncan). A careful reading of these portions in Duncan reveal no teaching or suggestion whatsoever of a tasking horizon as used in the present invention. Moreover, going beyond page 31, further careful reading of cross-referenced sections 6.2 and 6.3 in Duncan further attests that none of the portions of

Duncan identified in the Examiner's Answer suggests the concept of a task independent time window into and out of which various task dates may be moved.

Furthermore, the description of the term "schedule development" on page 31 in Duncan cross-references section 6.4 thereof, found at pages 66-71. Turning to section 6.4, Duncan states that "[s]chedule development means determining start and finish dates for project activities." Again, while this passage of Duncan may correspond to the predicting or estimating of start and stop dates in Appellants' invention and to the erroneous definition of "tasking horizon" set forth in the Examiner's Answer, it does not suggest the claim elements of "activating" or "selecting a tasking horizon" as discussed above.

While estimated start and stop dates for project activities are applicable concepts within the overall scheme disclosed in both the present application and Duncan, Appellants' claimed invention defines an additional plane of reference by analyzing movements of estimated dates and differences between estimated dates and actual dates against a fixed, task-independent planning window. This additional plane of reference is absent entirely from Duncan. Thus, contrary to the assertions in the Examiner's Answer, the passages cited from Duncan do not and cannot meet the claimed step or module for "activating" or "selecting a tasking horizon" recited in independent claims 1, 9, 10, 17, 22 and 23, and as discussed above in section II.B. of this Reply Brief.

2. "Selecting A Verb"

a. *The Examiner Applies an Incomplete/Incorrect Definition of "Verb"*

Claim 1 recites a step of "selecting a language . . . ," and also "wherein a verb describes a reason . . . for said churn." Similarly, independent claims 9, 17, and 23 each recites a step of "selecting at least two verbs . . . ," while independent claims 10 and 22 each recites a module for "assigning at least two verbs" The term "language" as found in claim 1 encompasses the term "verb," the definition of which, with respect to the

present invention, is discussed above in section II.C. of this Reply Brief. Since the Examiner's Answer's interpretation of the term is inaccurate, as described above, the conclusions that the relevant elements in claims 1, 9, 10, 17, 22 and 23 are met by the cited passages in Duncan also are incorrect.

In maintaining the final rejection of claims 1, 9, 17 and 23, the Examiner's Answer alleges that section 4.3.3.3 in Duncan meets the elements of the claims identified above (final Office Action, p. 6, item 13, *inter alia*; Examiner's Answer, pp. 18, 28). Section 4.3.3.3 in Duncan states that "[t]he causes of variances, the reasoning behind the corrective action chosen, and other types of lessons learned should be documented so that they become part of the historical database for both this project and other projects of the performing organization." The rationale for this rejection is that "verbs and language are encompassed by lessons learned" (Examiner's Answer, p. 4). Specifically, the Examiner's Answer contends that "the documentation of the lessons learned encompasses *selecting a language . . .*" (emphasis added), and also that "the identification and use of definitions for terms used in the disclosure of Duncan constitute *selecting a language*" (Examiner's Answer, pp. 18, 28).

Neither the former nor the latter of these explanations demonstrates any suggestion of a set or sets of predetermined, structured words or phrases selected during a planning phase of the process. The latter correlation from the Examiner's Answer reiterated above does not even restrict the "language" to reasons why or why not a task date was executed as scheduled. To say that Appellants' "verbs" are obvious over all the definitions and terms used in the disclosure of Duncan is akin to saying that creation of the novel *Gone with the Wind* is obvious as a mere rearrangement of words based on all the words known in the English language.

In the rejection of claims 10 and 22, the Examiner's Answer relies upon Duncan's disclosure of "activity definition and activity sequencing" on pp. 30-32 and section 3.3.2 in Duncan (specifically, the bottom of p. 30 to the first line on p. 31) as meeting the claimed element of "assigning at least two verbs . . ." (Examiner's Answer, p. 9). These two

passages cross reference sections 6.1 and 6.2 of Duncan, found at pages 59-64, with an overview chart thereof on p. 60. These pages in Duncan discuss identifying the specific activities that must be performed, and arranging the identified activities into an executable sequence, respectively. Nowhere in pages 59-64 does Duncan suggest predefining a structured set of words and phrases. In fact, the portions of Duncan cited in the rejection are completely irrelevant to the identification of reasons why a task date was or was not executed as predicted. Thus, the Examiner's Answer's application of Duncan here is even inconsistent with its own definition of the term "verb"!

b. *The Passage Relied Upon in the Examiner's Answer is Taken Out of Context*

The Examiner's Answer cites section 4.3.3.3 in Duncan as meeting the claim element of "selecting a language" and "selecting at least two verbs" as recited in independent claims 1, 9, 17 and 23 (Examiner's Answer, pp. 4, 11, 18, 28, *inter alia*). Section 4.3.3.3 in Duncan is entitled "lessons learned" and is a result or conclusion of a section entitled "Overall Change Control," one of the three major topics within the Chapter on "Project Integration Management." An overview of the topics in this chapter is shown in Figure 4-1 on page 41 in Duncan. The process of "Overall Change Control" is concerned with changes to the integrated project plan. This process is performed by considering the various information specified as input in section 4.3.1, and using the tools and techniques listed in section 4.3.2, provides the conclusions listed in section 4.3.3, including the "lessons learned" as relied upon in the Examiner's Answer to meet the claim element of "selecting a language/two verbs."

As explained above in section II.B. in this Reply Brief, the term "verb" as used in the present invention and as described in the instant specification is a word or phrase from a set or sets of predetermined, structured words and phrases selected in the planning phases of the project prior to the assigning of tasks. If anything, the "verb" set(s) of the present invention is an input to the modeling system, so that employees can select from this set or

sets when identifying their reasons for meeting or not meeting an estimated date relative to the appropriate tasking horizon. “Verbs” do not represent results or conclusions in the manner of Duncan’s “lessons learned.” It is improper for the Examiner’s Answer to overlook the context of the cited “lessons learned” section in Duncan within the overall context of Duncan’s outline, simply to force fit the reference into the contours defined by Appellants’ claims.

3. “Receiving An Actual Date”

Independent claims 1, 9, 17 and 23 each recites a “method for modeling multiple tasks . . .” which includes a step of “receiving an actual [] date . . .” According to the Examiner’s Answer, this step is met by Figure 3-5 [6.4] on page 31 in Duncan (Examiner’s Answer, pp. 4, 8, 12). Figure 3-5 is an overview illustration of the planning process for a project. The segment “[6.4]” cited in the Examiner’s Answer is a “Schedule Development” segment, which occurs before the cost budgeting process (segment 7.3) and project plan development (segment 4.1).

As noted by the arrow at the right hand side of Figure 3-5, after performance of all the segments in the Figure, the outline moves to the executing processes. Appellants find it curious that the Examiner’s Answer considers one of the preliminary phases in the planning process to read on the claimed step of “receiving an actual date.” The Examiner’s Answer fails to explain how an actual date of a project task can occur before the overall plan for the project has been fully developed, and before the project has entered the execution phase.

The Examiner’s Answer also points to page 159 in Duncan as reading on the “receiving an actual [] date . . .” step recited in the claims (Examiner’s Answer, pp. 4, 8, 12). Page 159, however, is nothing more than a glossary page defining the terms “Actual Finish Date” and “Actual Start Date.” Duncan, however, provides no teaching or suggestion whatsoever of doing anything with an actual date, much less “receiving” any actual dates into a modeling method, and then also performing the various other steps

recited in claims 1, 9, 17 and 23. In fact, the terms “Actual Finish Date” and “Actual Start Date” are not found anywhere in the entire book, other than page 159. The Examiner’s position that the claim element “receiving an actual [] date” is met by Duncan, therefore, is untenable.

4. “Computing” or “Assigning a Risk Factor”

Independent claims 9 and 23 recite the step of “computing a risk factor” based on one of the selected verbs, while independent claims 10, 17 and 22 recite a function or step of assigning a risk factor based on one of the selected verbs. Appellants’ specification describes the term “risk factor” as either a percentage probability that an actual task date will deviate from the estimated task date, or as a standard deviation of time within which the actual task date is likely to vary from the estimated date (specification, p. 18, ln. 20 – p. 19, ln. 22; p. 22, ln. 10 – p. 23, ln. 2, *inter alia*).

The Examiner’s Answer, however, contends that the section entitled “Risk Quantification” at section 11.2 in Duncan reads on Appellants’ claim elements of computing and assigning a risk factor based on a selected verb (Examiner’s Answer, pp. 8, 10, 12).

As disclosed in lines 3-4 on page 115 in Duncan, section 11.2 “is primarily concerned with determining which risk events warrant response.” Such determination is accomplished by identifying discrete risk events (sections 11.2.1.2, 11.2.1.3) and evaluating the monetary cost of each discrete risk event (section 11.2.2, pp. 115-116), to thereby enable a decision to be made as to which risk events should be addressed (section 11.2.3). As shown in Figure 3-5 on page 31, the section 11.2, “Risk Quantification,” falls within the planning stages of the project, before execution of any tasks have begun.

In the claimed invention, however, the risk factor is computed or assigned based on a verb received by the modeling system in connection with an actual date associated

with a task (*e.g.*, claim 22, which recites that the “management module . . . assigns a risk factor to said task based on at least one of said verbs . . . used to describe said churn”; and claim 23, which recites the step of “receiving one of said at least two verbs that corresponds to said actual start date, wherein said verb describes at least one reason for said actual start date.”). In order to obtain an actual date, at least a portion of a task within a project must have been executed. Thus, section 11.2 in Duncan as cited in the Examiner’s Answer cannot read on the claimed function/step of computing or assigning a risk factor based on a selected verb.

B. DUNCAN DOES NOT SUGGEST THE CLAIMED INVENTION AS A WHOLE

The claimed invention is a system and method for modeling the planning and execution of a project. One of the most important aspects of this invention are that it defines a predetermined, task-independent planning window into and out of which various estimated and actual task dates are scheduled and/or moved, and then analyzes the progress of the various project tasks by focusing on reasons for “churn,” *i.e.*, reasons why an actual task date differs from an estimated task date, when the churn dates are not encompassed entirely within a selected tasking horizon. By keeping track of such variances for each task date, project management personnel are enabled to more accurately predict the timing of the project and to take possible actions to minimize churn as execution of the project progresses and for future projects.

In addition to relying on the concepts of a tasking horizon and verbs as discussed in Section II.B. above in this Reply Brief, the claimed invention is algorithmic and iterative in nature (*e.g.*, steps of “selecting at least two verbs,” “receiving a predicted start date,” “receiving an actual start date,” “comparing said predicted start date with said actual start date,” “computing churn,” and “assigning a risk factor” based on one of the selected verbs, etc.). Independent claims 10 and 22 recite apparatus components such as a management

module and a task assignment station for performing selected ones of the method steps recited in independent claims 1, 9, 17 and 23.

All project management tools seek to provide a level of organization and control to achieve optimal efficiency and effectiveness in completing the ultimate project objective. The claimed invention does this by acquiring and analyzing data at each increment of execution of the project. Duncan, on the other hand, as does all the other prior art project management tools which Appellants are aware, only manages the projects on a macro level, and is unconcerned with the myriad of day-to-day conditions, minor occurrences, or other minutiae which may affect the performance of only one or a few individual employees at a time.

In particular, Duncan is a broad, conceptually-based how-to guide for project managers, and offers only a bird's eye view of an overall project management plan. Duncan does not teach or suggest all of the specific implementation steps or specific apparatus components such as the claimed management module or the claimed task assignment station recited in Appellants' claims. When the claimed invention is viewed as a whole, and compared with Duncan, viewed as a whole, it is clear that the two are significantly different from each other.

Absent demonstrable specific support in the prior art (Duncan or otherwise) for each of the elements recited in Appellants' claims, the Examiner's Answer frequently resorts to broad conclusions that "Duncan provides the functionality" of the claimed features to support the conclusion of obviousness. (*See, e.g.*, Examiner's Answer, p. 12, last paragraph; p. 17, ln. 8; p. 18, line 16; p. 27, last paragraph, *inter alia*). The "functionality" that is common between Duncan and the claimed invention is also shared by all other project management plans, outlines, methods, etc. That is, all have the goal of scheduling and predicting the performance of a project from start to finish in the most efficient and effective manner. However, mere functionality does not meet the claims when the elements recited in the claims are not taught or suggested in the cited prior art. A hovercraft and a bicycle both provide the functionality of enabling a person to travel from

point A to point B, but that does not mean that both travel to their destination in the same manner or that one apparatus is an obvious modification of the other.

IV. CONCLUSION


It is a well-established principle in patent law that a conclusion of obviousness is improper unless “the teachings of the prior art . . . in and of themselves, and without the benefit of Appellant’s disclosure, make the invention’s a whole obvious.” *In re Spinnable*, 405 F.2d 578, 585 (C.C. PA 1969).

However, in this case, the Examiner’s Answer has not presented any clear lines of reasoning as to how or why one of ordinary skill in the art would be influenced by Duncan or any other prior art to modify Duncan’s teachings to provide each and every specific feature of Appellants’ invention as particularly recited in the claims, as read in light of the specification. In particular, the Examiner’s Answer has failed to demonstrate any teaching, suggestion, or motivation in Duncan to identify a task-independent time window corresponding to Appellants’ claimed “tasking horizon,” a predetermined, structured set or set(s) of words and phrases corresponding to Appellants’ claimed “verbs.” Since the outstanding rejection under 35 U.S.C. 103 is predicated on inaccurate definitions of those terms, the inaccuracies propagate through the reasoning in the entire rejection.

For at least this reason alone, Appellants' respectfully submit that the claimed invention cannot be rendered obvious by Duncan. Accordingly, reversal of the rejection under 35 U.S.C. 103 is courteously solicited.

Dated: August 19, 2002

Respectfully submitted,

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